

**The
MYTH
of
Natural
Rights**

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PREFACE

ABOUT THE AUTHOR

L.A. Rollins received his B.A. degree in Philosophy from California State College at Los Angeles in 1970. He is a freelance writer who has written comedy material for Anthony Russell, a stand-up comic, as well as contributing to various publications, including *Invictus*, *Academic Associates' Book News*, *Books for Libertarians*, *The Personalist*, *Outlook*, *Critique*, *The Journal of Historical Review*, *Playboy* and *Grump*. He is the author of "Lucifer's Lexicon," a series of satirical and humorous definitions which has appeared in *Reason* and, more recently, *New Libertarian*. He is currently working on several imaginary books, including *Who Killed Oswald?*, *Wall Street and Antony Sutton*, *Rush to Judgment at Nuremberg*, *The Amoral Point of View*, *Winning Through Incineration* and *Real Men Don't Eat Stacy Keach*.

THE MYTH OF NATURAL RIGHTS

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The myth of natural rights

"History is not lacking in either religions or prophets, even without gods." Albert Camus made this remark in a book which advocates an absurd pleasure in a life devoid of meaning, ultimate truths, gods and religions. His words reflect the trauma of humanism: that it has gloried in its refutation of the gods of old, only to replace them with the new gods of "man," "nature" or "science." Even libertarian thinkers, who revel in their rationality, have followed that tradition. Their scorn for religion is matched only by the fervor with which they promote their own religion.

Virtually all libertarian doctrine stems from a belief in some absolute truth. That truth might be the utilitarian creed of "the greatest good for the greatest number." Or the truth might be "God's word," or the U.S. Constitution or some other document. More often than not, however, the absolute truth libertarians base their beliefs on is natural rights. From these rights libertarians derive their morality: anything violating their rights is immoral and evil; anything supporting them is just and good.

Any superficial political conversation with libertarians will sooner or later touch on the subject of rights. The IRS violates our rights by enforcing taxation; our right to privacy is constantly being invaded; property rights must be defended against confiscation; conscription is a denial of the right to self ownership; or the famous libertarian creed: each person has a right to act as they please, as long as they do not violate the equal rights of others.

If the discussion gets serious, though, libertarians find their solid ground of rights quickly disintegrating into quicksand. One deadly question usually puts an end to the rights nonsense: why is the communist claim that people have a right to live off the labor of others less valid than libertarian

rights? The libertarian must then find an authority behind his or her authority, and there is no rational place to turn. They can appeal to God, or nature, or human nature as ordaining their brand of rights, but the communists can do the same. After a few minutes of debate, most libertarians will confess that they aren't very certain about natural rights — they just find them a convenient and well-understood way of expressing their views. In short, natural rights are the little white lie of the libertarian movement.

Little white lies are not so bad. They are espoused most often by people who have an emotional, perhaps even rational, but not an intellectual, attraction to libertarianism. Big lies are committed when people who base their reputations on their scholarly work champion ideas which they neither believe nor can defend. That is what *The Myth of Natural Rights* is all about. It's about the big lies that thinkers like Rand, Rothbard, Konkin, Machan and others perpetuate. L.A. Rollins dissects the arguments for natural rights, cutting through the faulty logic to the core of libertarian dogma. As he does so, we cannot but wonder whether there is any basis for libertarian ideology other than personal preferences.

The Myth of Natural Rights is an important book for libertarians, not only for its analysis of natural rights theory, but for the questions that must be raised in its wake. Libertarianism is a religion, with human nature its God, and natural rights its commandments. L.A. Rollins demonstrates that the new God is just as fleeting and irrational as the old. But without religion, without a god to appeal to, can there be any basis for an objective libertarian morality? That question is left for readers to ponder. Its answer may lead to a new stage of evolution for the libertarian movement.

Stephen O'Keefe
November, 1983

THE MYTH OF NATURAL RIGHTS by L.A. Rollins

"Since late Neolithic times men in their political capacity have lived almost exclusively by myths."¹ One of the major political myths of the modern age has been the myth of "natural rights," the myth of rights with which human beings are supposedly endowed by nature. This myth was enshrined in the American Declaration of Independence as well as the French Declaration of the Rights of Man. And although the myth has lost much of its power during the last two centuries, it nevertheless survives and in some regions even flourishes — in the fevered imaginations of contemporary libertarians, for instance.

"Natural rights" — a.k.a. "man's rights," "the rights of man," "human rights," "individual rights," "Lockean rights" or "moral rights" — are rights that people are supposed to possess simply because they are human beings. Or, to put it another way, natural rights are rights that people supposedly possess simply by virtue of their human nature. Since natural rights are supposedly possessed simply because one is human, such rights are therefore considered to be universal: possessed by all people. Furthermore, they are considered to be inalienable: not subject to being taken away. And, it is held, all people have the same, or equal, natural rights.

The myth of natural rights is an offspring of the related myth of "natural law." As Murray Rothbard, "Mr. Libertarian," puts it, "'Natural rights' is the cornerstone of a political philosophy which, in turn, is embedded in a greater structure of 'natural law.'"² Similarly, Ronald Cooney sees the notion of natural rights originating in "the Roman Stoic idea of a 'law above the law,' of an unwritten law which precedes and is superior to man-made law."³ This "superior" form of law is, of course, the "natural law." (This "natural

law," it must be emphasized, is a moral law which prescribes how people *ought* to act. It is distinct from scientifically established laws, sometimes called "natural laws," which describe how natural phenomena regularly *do* act.)

Now what do I mean by calling natural rights "mythical"? Well, just as iconoclastic psychiatrist Thomas Szasz has said that mental illness is mythical and is really a fake or metaphorical illness,⁴ so I say that natural rights are mythical and are really fake or metaphorical rights. By the same token, I say that natural law is mythical and is really fake or metaphorical law.

The metaphorical nature of natural rights is obvious in many statements by natural rights mythologizers. Consider a few examples. According to Ronald Dworkin, "Individual rights are political trumps held by individuals."⁵ But will Dworkin's "individual rights" *literally* trump the guns held by a bunch of cops enforcing an "unjust" law? Can shrimps whistle? John Hospers writes, "And so I put up a 'no trespassing' sign, which marks off the area of my right. Each individual's right is his 'no trespassing' sign in relation to me and others."⁶ Of course, unlike a real, literal "no trespassing" sign, natural rights are invisible. But of what use is an invisible "no trespassing" sign? Another natural rights mythologizer is Eric Mack who says, "Lockean rights alone provide the moral philosophical barrier against the State's encroachment upon Society."⁷ But a "moral philosophical barrier" is merely a metaphorical barrier, and it will no more prevent the State's encroachment upon "Society" than a moral philosophical shield will stop a physical arrow from piercing your body.

But if natural rights are merely fake or metaphorical rights, what then are real rights? Real rights are those rights actually conferred and enforced by the laws of a State or the customs of a social group. Such rights are sometimes called "positive

rights." As Maurice Cranston puts it, "Positive rights are facts. They are what men actually have."⁸ In short, positive rights are actual, factual rights. Natural rights, by contrast, are rights that supposedly "ought" to be conferred and enforced by law or custom, rights that people supposedly "ought" to have. But, as Jeremy Bentham said, "Right is the child of law; from real laws come real rights, but from imaginary laws, from the 'laws of nature' come imaginary rights."⁹ Thus, natural rights are imaginary rights.

In my view, natural law and natural rights are human *inventions* (not *discoveries*) intended to further the interests of the inventors. As Laurence Labadie put it, "...all theories of 'rights' are merely human inventions, used by one party or another in order to enhance, as they think, their ability in getting along in the world."¹⁰ It is misleading, therefore, to contrast natural law with man-made law, for natural law is just as surely man-made as any governmental law. The difference is that laws made by government are enforced by the punishment of detected violators by the government while natural laws are not enforced by the punishment of violators by nature. Ironically, this latter point is well made by Robert LeFevre in his essay "Moral Law," wherein he explains that he is "looking for a natural law." LeFevre writes,

Here is a man who spends his life cheating, stealing and robbing others. Is there something in nature which decrees that sooner or later he will suffer for these negative and unwanted actions? Studies indicate that there is no natural retaliation. While it may be true that some thieves will suffer; it is equally true that some will not. The miscreant has to protect himself from his outraged neighbors who know of his excesses, but the rain and the sun treat him the same way they treat others. All the laws of nature behave toward the thief exactly as they behave toward his victim.¹¹

By contrast, Samuel Edward Konkin III will not admit this truth and so he pompously pontificates:

“LeFevre chooses to look at the world from the irrational eyes of the aggressor who wishes to initiate his action and be free of its consequences. I have no intention of faking reality for the violence-initiators. Perhaps he can evade apprehension for his theft or blow as one who jumps [off] a cliff can be wafted away on a strong updraft; but the natural consequences of gravity is falling to one's death and the natural consequence of invasion is restoration.”¹²

Konkin says he has no intention of faking reality, but it looks more like he has no intention of *facing* reality. I have never jumped off a cliff precisely because my experience with jumps from lesser heights leads me to agree that the natural consequence of jumping off a cliff (without something like a hang-glider to brake one's descent) is death or at least serious injury. However, I have plenty of experience with “invasion,” both as an invader and an invadee. And I know from that experience that “restoration” is *not* the natural consequence of “invasion.” It was over 10 years ago that my cassette recorder with built-in AM/FM radio was stolen from my car which I had foolishly left unlocked while parked in a college parking lot. Under the circumstances, I had not the faintest clue as to who might have stolen it and, thus, no means of getting them to return it. It has not been returned to me to this day. I repeat: restoration is *not* the natural consequence of invasion. Natural law is not enforced by nature.

Since the many different inventors of natural laws and natural rights have had different interests to further, it is not surprising that they have invented a wide variety of different and conflicting natural laws and natural rights. As George H. Smith has written, “In its various manifestations throughout history, natural law theory has been used to justify oligarchy,

feudalism, theocracy, and even socialism.”¹³ Aristotle, for example, held that some men are slaves “by nature.”¹⁴ But Etienne de la Boetie claimed that “we are all naturally free.”¹⁵ Concerning “the doctrine that every man has a natural right to certain freedoms simply because he is a man,” Alisdair Macintyre writes, “Diggers and Levellers gave different interpretations to this doctrine at the economic level; the Diggers believed in community of goods, and especially in common ownership of land, the Levellers in private property.”¹⁶ According to Russell Kirk, Hugo Grotius “had argued that one of the laws of nature is this: that a conqueror has the right to slaughter or perpetually enslave a whole people whose armies he has defeated.”¹⁷ But Montesquieu said this would deny the natural law of preservation of life.¹⁸ John Locke asserted that there is a natural right to punish violators of the natural law.¹⁹ Herbert Morris has gone so far as to claim that such violators themselves have a right to be punished!²⁰ But Robert LeFevre asserts that to coercively punish a violator of rights is simply to violate the “inalienable rights” of the rights-violator. In 1796, followers of Babeuf, the French egalitarian and communist, proclaimed, “Nature has given every man an equal right to the enjoyment of its goods.”²¹ But this, of course, is contradicted by anti-egalitarian exponents of the natural rights myth. Mortimer Adler asserts that “our primary natural right is our right to the pursuit of happiness.”²² From this he then derives various “subsidiary natural rights — rights to life, security of life and limb, a decent livelihood, freedom from coercion, political liberty, educational opportunities, medical care, sufficient free time for the pursuits of leisure, and so on....”²³ But libertarian exponents of natural rights would reject at least four of the eight “subsidiary natural rights” listed by Alder. According to Jeffrey Paul, Alan Gewirth “defends redistribution [of property] as the appropriate means to protect the right to well-being,” but this displeases the

libertarian Paul, who sees this as conflicting with his own cherished "property rights."²⁴ Even Adolf Hitler appealed to "the eternal law of nature" to justify the enslavement of Slavs. "It is the eternal law of nature that gives Germany as the stronger power the right before history to subjugate these peoples of inferior race, to dominate them and to coerce them into performing useful labors. I admit this has nothing to do with Christian ethics, but the very fact that it is according to the more ancient and well-tried laws of nature makes it the more likely to last a long while."²⁵ Thus, as George Smith has written, "When libertarians claim that coercion is contrary to natural law (or the nature of man), they must realize that, aside from the truth or falsity of this assertion, such an appeal to 'nature' places them in a confused and nebulous political tradition."²⁶ Confused and nebulous indeed.

As I've said, natural law and natural rights are inventions intended to advance the interests of the inventors (whom I shall call "natural legislators"). What is often involved is an attempt to manipulate other people into behaving as desired by a natural legislator by duping them into accepting the values of the natural legislator as the values of nature. Thus, the personal, subjective preferences of a natural legislator are passed off as the impersonal, objective requirements of nature. For example, Frederick D. Wilhelmsen writes that, "Natural law insists that pornography...is bad and that it is bad not just for me but for everybody, and it equally insists that not only must I not invade my neighbor's property but that he must not invade mine or anybody else's."²⁷ In other words, *Frederick Wilhelmsen* insists that pornography is bad for everybody, and *he* equally insists that no one must invade

anybody else's property. But in order to give his personal preferences greater authority, Wilhelmsen pretends that it is nature who is doing all the insisting.

Related to the myth of natural rights is the myth of "duty." As John Hospers explains:

We speak of "*natural* rights" or "*human* rights" — rights that human beings have "because of their very nature as human beings": for example, the right to life, the right to liberty and the pursuit of happiness. What specifically do these rights involve?

...When a man claims that he has a certain right, he is making a large claim: for there is a logical relation between the rights of A and the duties of others (B, C, D, etc.) and, similarly, if B has a right, then A, C, D, etc. have a duty. If A has a right to something, then others have a duty not to behave in such a way as to violate that right.²⁸

So one person's (natural) right is everyone else's duty. But what is this thing called "duty"? Otto F. Kraushaar defines duty as "Whatever is necessary or required, or whatever one is morally obliged to do, as opposed to what one may be pleased or inclined to do."²⁹ According to Ayn Rand, "The meaning of the term 'duty' is: the moral necessity to perform certain actions for no reason other than obedience to some higher authority, without regard to any personal goal, motive, desire or interest."³⁰ Or, as P.H. Nowell-Smith puts it, "The language of 'You ought' and particularly of 'duty' is frequently used in cases where the agent has no reason for doing what he is told other than the fact that it is his duty."³¹

However, Nowell-Smith gives the game away when he goes on to say, "The connexion between duties and the demands of others comes out clearly in the fact that we use the word 'obligation' as a synonym for 'duty'; and this word is derived from a root meaning 'tied', an obvious metaphor for

coercion.”³² Thus duty is a matter of metaphorical or fake coercion. If you want someone to do something which he has no personal reason for doing, but you are unable or unwilling (perhaps afraid) to use real coercion to get him to do it, then you can try to get him to do it by means of metaphorical or fake coercion. You can tell him it’s his duty to do it. You can tell him he “must” do it. Why? Simply because he must. And if he is gullible enough to believe that he must do as you tell him, simply because he must, then you can control that two-legged sheep by means of the metaphorical or fake coercion of duty. Or, as John Badcock put it, “Given a believer in duty, it becomes possible for him to be enslaved with his own consent.”³³

But, as Ayn Rand has pointed out, “reality confronts a man with a great many ‘musts,’ but all of them are conditional. The formula of realistic necessity is: ‘You must, if’ — and the ‘if’ stands for man’s choice; ‘— if you want to achieve a certain goal.’”³⁴ There are no unconditional “musts” or “oughts,” no categorical imperatives (to use Kantian terminology). That is why, although I am an egoist of sorts, I nevertheless reject what Brian Medlin calls the principle of “universal categorical egoism,” to wit, that “we all ought to observe our own interests, *because that is what we ought to do*.”³⁵ I say, to the contrary, that it is up to each individual, insofar as he has freedom of choice in the matter, to decide for himself whether or not to pursue his own interests.

If there are no unconditional “musts” or “oughts,” then there are no “duties” or “moral obligations.” Which means there is no “morality,” no “system of the principles and duties of right and wrong conduct.”³⁶ Morality (like natural law and natural rights, which are specific examples of “moral” ideas) is a myth invented to promote the interests/desires/purposes of the inventors. Morality is a device for controlling the

gullible with words. “You ‘must not’ commit murder!” Why not? “Because murder is ‘wrong!’ Murder is ‘immoral!’” Bunk! Murder may be impractical or excessively risky or just not worth the trouble. There are all sorts of reasons why I might refrain from committing murder even when I would like to do it. But murder is not “wrong.” Murder is not “immoral.” And the same goes for rape, robbery, assault, battery, burglary, buggery, bestiality, incest, treason, torturing children, suicide, cannibalism, cannabism, etc. Moralists Alan Wheelis says, “Morality is a wall. On it is written: Whatever passion impel you, whatever goal you pursue, beyond this limit you may not go....”³⁷ But if morality is a wall, it is a metaphorical or fake wall, a wall built with words, not bricks, a wall that will not stop us amorlists. So if you want to be safe from us, Alan Wheelis, you’d better build some *real* walls.

I’ve said that morality is a myth and have dubbed myself an “amorlist.” But, according to moralist Tibor R. Machan, “...all people *must* play the moral game.”³⁸ Why? Machan writes:

This we see by noting that it is perfectly natural to ask questions pertaining to the moral worthiness of people in *any* circumstances, provided they are capable of thinking for themselves and choosing between various alternative ways of being and acting. Such notions that someone *ought to have* done otherwise than he did, that we *should have* behaved differently from how we did behave, or that we *should do* this or that when we get into this or that situation — all these are thoroughly tied to our human way of life. It is our way of life which attests to the necessity of morality.³⁹

It may be “perfectly natural” for Machan, a moralist, to ask questions about the “moral worthiness” of people, but why is

it *necessary* for all people to ask such questions? Machan says that various kinds of moral discourse "are thoroughly tied to our human way of life. It is our way of life which attests to the necessity of morality." But while I grant that "our human way of life" makes it *possible* for people to play the "moral game," Machan has not explained why, or proven that we all "*must*" play the "moral game."

There are those who agree with me that there are no unconditional musts or oughts, but who nevertheless write about something they call morality. For example, George H. Smith has written about something he calls "rational morality," as distinguished from "religious morality." But Smith's "rational morality" is based on *positing* happiness as "man's ultimate value." And Smith himself says, "I will not argue that all men actually pursue happiness, nor that all men 'ought' to pursue happiness (whatever such an assertion might mean); rather, I shall offer happiness as a hypothetical goal. In other words, *if* a man desires happiness, *then* he ought to be concerned with those conditions, those values, that are conducive to man's happiness."⁴⁰

Smith's "rational morality," to use Harry Browne's terminology, is neither an absolute nor a universal morality. It is merely a personal morality. It is binding or obligatory only on those who, like Smith presumably, pursue happiness as their ultimate value. Of course, many people pursue other values as their ultimate value, for example, survival or autonomy or family or duty. And whatever one posits as one's ultimate value, there will be certain subsidiary values deemed conducive to the achievement of that ultimate value. I wonder why it is only the pursuit of happiness as an ultimate value that provides a basis for "*rational* morality"? Is it, for example, *irrational* to pursue personal autonomy as one's highest value? In any case, I want to emphasize that Smith's "rational morality" is not morality in the sense in which I

(and I think most people) use the term, since his "rational morality" does not involve any element of duty or unconditional obligation.

As I've already said, to claim a natural right for yourself is to assert a corresponding duty for others, to wit, the duty of refraining from acting contrary to your natural right. If, for example, you claim a natural right to life, then you also assert that I have a duty to refrain from murdering you, regardless of what my personal goals, motives, desires or interests might be. No matter how much I might gain from murdering you, I "must not" murder you. Why not? Simply because I "must not." This "must not" is unconditional and absolute. But, as such, it is merely an arbitrary, unprovable assumption. As James J. Martin has said:

Since it has no anatomical locus (nobody really knows where your natural rights are like they know, for instance, where your pancreas is), [the idea of natural rights] involves an ability to deal with intangible things of this sort. They amount to matters that have no dimensions and I call them religious ideas — there is no challenging them. Someone who supports a religious idea involving the Trinity or Transubstantiation or a number of other religious doctrines is irrefutable. There is no way of proving these things and there's no way of disproving them. If someone wishes to maintain that he has these intangible things called rights, well, what is one to say about it? You can't disprove it — but again there's no way of proving them either.⁴¹

As a matter of fact, some devotees of the myth of natural rights admit that their claims about natural rights are simply unproven assumptions. For example, Ronald Dworkin, sympathetically explicating the views of John Rawls, writes that, "...justice as fairness rests on the assumption of a natural

right of all men and women to equality of concern and respect, a right they possess not by virtue of birth or characteristic or merit or excellence but simply as human beings with the capacity to make plans and give justice.”⁴²

But some natural rights mythologizers seem to think that their belief in natural rights is something more than an unproven and unprovable assumption. They have presented arguments that purport to rationally demonstrate the reality of natural rights. I’m going to examine some such arguments to see if they demonstrate anything beyond the wishful thinking and faulty logic of the exponents of the myth.

Ironically, Ayn Rand, who debunked the myth of “duty” by pointing out that in reality all “musts” are conditional, was nevertheless an influential exponent of the myth of natural rights. In an essay on “Man’s Rights,” Rand wrote as follows:

The concept of individual rights is so new in human history that most men have not grasped it fully to this day. In accordance with the two theories of ethics, the mystical or the social, some men assert that rights are a gift of God — others, that rights are a gift of society. But, in fact, the source of man’s rights is man’s nature.

The Declaration of Independence stated that men “are endowed by their Creator with certain unalienable rights.” Whether one believes that man is the product of a Creator or of nature, the issue of man’s origin does not alter the fact that he is an entity of a specific kind — a rational being — that he cannot function successfully under coercion, and that rights are a necessary condition of his particular mode of survival.

“The source of man’s rights is not divine law or congressional law, but the law of identity. A is A — and Man is Man. *Rights* are conditions of existence required by man’s nature for his proper survival. If man is to live on earth, it is *right* for him to use his mind, it is *right* to act on his own free judgement, it is *right* to work for his own values and keep the product of his work. If life on this earth is his purpose, he has a *right* to live as a rational being; nature forbids him the irrational.” (*Atlas Shrugged*)⁴³

According to Rand, rights are a necessary condition of “man’s” particular mode of survival. This ties in with her assertion that “man” is “an entity of a specific kind — a rational being” and “cannot function successfully under

coercion." But, while there is *some* truth in the claim that "man" cannot function successfully under coercion, nevertheless the claim is far from being a universal truth. Obviously, few people are able to function successfully under coercion in the form of a bullet fired into their brain without their consent. And there are, of course, other forms of coercion which might impair to some degree a person's ability to function successfully. But some of the less drastic forms of coercion, though inconvenient to the coercee, are not necessarily incompatible with his functioning successfully. Consider: all of us who live in State-dominated societies and who are not members or beneficiaries of the State-apparatus, are living under some degree of coercion, if only by virtue of being forced to pay taxes. Yet, despite living under State coercion, many people still manage to function successfully. Ayn Rand herself provided a good example of someone who was able to function successfully despite living under coercion by the State.

As Albert Ellis has written:

Because man is supposedly a rational being, Miss Rand *assumes* that he cannot function successfully under coercion. Actually, the more rational he is *the more* successfully he can function under almost any conditions, including coercion. It is fairly obvious that he can function *better* without than with coercion; but even this is not always true. Children often function better with some degree of forced discipline or coercion; and hordes of so-called adults, too! Even if man does get along better without coercion, individual rights that preclude his being too coerced socially are hardly a *necessary* condition of his particular mode of survival. We know that he survives without such individual rights; we can only say that he usually survives *better* or *more happily* with them.⁴⁴

Furthermore, in so far as it *is* true that "man" cannot function successfully under coercion, it is also true that *animals* cannot function successfully under coercion. Being shot in the head is just as detrimental to the successful functioning of a deer as it is to the successful functioning of "man." Therefore, if a "right" to freedom from coercion is a necessary condition of "man's" particular mode of survival, then a "right" to freedom from coercion is also a necessary condition of a deer's particular mode of survival. And, by the same token, a "right" to freedom from coercion must also be a necessary condition of every animal's and every plant's particular mode of survival, inasmuch as every animal and every plant is vulnerable to being injured or killed by coercive action.

Although his views may no longer be the same, George Smith made essentially the same point in his essay, "Ayn Rand and the Right to Life: A Critical Evaluation." Smith wrote:

... it should be apparent that Rand's prerequisite for the right to life is equally applicable to any life form. A steer "cannot function successfully under coercion" either; a steer being led to slaughter requires the recognition of his means of survival *if* he is to continue living; "rights are a necessary condition of his particular mode of survival" as well. If the steer is to survive, the creatures capable of moral action — the creatures capable of recognizing an obligation — must recognize the steer's "right" to his own life.

If the metaphysical requirements of an organism's survival (concerning its relationship with volitional creatures) constitutes a *criterion* for the possession of the right to life sanction, then this moral sanction must properly apply to all life, insofar as these organisms enter into relationships with men.

Ultimately, Rand's only possible source for her right to life is a moral sanction on the process *as such*, life as the ultimate value of each individual organism. This would mean that moral creatures (men) are obligated not to interfere *via* the initiation of force with the life processes of all other organisms (including other men); to do so would be a violation of a right and, hence, immoral. *Man's* right to life, then, would be merely a specific *application* of the general life sanction.⁴⁵

But if all living things possess a "right" to life, what then? Smith spelled out one enormously significant implication as follows:

My argument is this: Ayn Rand's derivation of man's inalienable right to his own life rests *implicitly* on a moral sanction of life *as such*; and, if she is to be consistent, Rand must apply her rights concept to *all life forms*. A sanction on all life, however, is inconsistent with man's survival. To live, man must kill other life — he cannot survive on inorganic matter. To posit that every living organism has a "right to life" results in the absurd situation that man, in order to be "moral" (i.e., in order not to violate any rights), must sacrifice his own life. The mere sustaining of man's life would necessarily entail immoral action on his part. Taken to its logical consequences, then, Rand's use of the right to life proves to be diametrically opposed to her philosophical egoism.⁴⁶

Thus, Rand's argument for "man's rights" is self defeating. "Man" has a "right to life." But if "man" has a "right to life," then so does every living thing. And, in that case, "man" cannot "morally" survive. To be "moral," he must not sustain his life, since that means violating the "right to life" of some

other organism. Ironically, therefore, "man's *right* to life" is inimical to "man's" *life*.

The source of this paradox is that Rand based "man's rights" on what "man" *needs* for survival. "Rights," as Rand put it, "are a necessary condition of man's particular mode of survival." But, since, for every form of life, there are necessary conditions (needs) for its particular mode of survival, Rand's argument implies that every form of life has rights.

But, as Rand herself sometimes said, *need is not a claim*. "Man's" need of freedom from coercion, for example, does not constitute a claim or a right to such freedom any more than "man's" need of food constitutes a claim or right to food. Those who believe that "man's" need of food does constitute a claim or right to food, and who believe that the government must guarantee that "man" has food, are sometimes known as "bleeding-heart liberals." By the same token, those who believe that "man's" need of freedom from coercion constitutes a claim or right to freedom from coercion, and who believe that the government must guarantee that "man" has freedom from coercion, could be called "bleeding-heart libertarians."

There is another aspect of Rand's argument for "man's rights" which is open to criticism. Consider this passage: "If a man is to live on earth, it is *right* for him to use his mind, it is *right* to act on his own judgement, it is *right* to work for his values and to keep the product of his work. If life on earth is his purpose, he has a *right* to live as a rational being; nature forbids him the irrational." As John W. Robbins has pointed out, "The first three times the word 'right' is used it appears as an adjective modifying an action; at the last it appears as a noun, denoting the attribute of a person. The connection between the two concepts is not mentioned but the reader is expected to believe there is one, for no better reason than that

the two words are spelled and pronounced alike."⁴⁷ To argue that because it *is right* for "man" to act on his own free judgment he therefore *has a right* to do so, is similar to arguing that because my chest *is cold* I therefore *have a cold* in my chest. To establish that something *is right* for "man" simply does not imply that "man" *has a right* to it.

But what is all this talk about "man"? "Man," after all, is only an abstraction and is not a real living being. It is only *men* (that is, people) who live, not "man." And men are all unique individuals with unique physiognomies, temperaments, metabolisms, body chemistries, personalities, mentalities, tastes, preferences, prejudices, talents, aptitudes, abilities, beliefs, desires, interests, values and purposes. By talking about "man" and what is right for "man," Rand obscured the fact that what is right for one man may conflict with what is right for another man. While it may be right for one man to act on his own free judgement, it may also be right for another man to act on his own free judgement so as to prevent the first man from doing so. Such conflicts between what is right for one man and what is right for another man mean that it is absurd to assert that all men have a right to what is right for them.

Max Stirner said, "He who is infatuated with *Man* leaves persons out of account so far as that infatuation exists, and floats in an ideal, sacred interest. *Man*, you see, is not a person, but an ideal, a spook."⁴⁸ Rand *was* infatuated with "man" and, as Stirner said, she floated "in an ideal, sacred interest." As George Smith pointed out, Rand's arguments for "man's" right to life rested on a "moral sanction" on "man's life." In other words, Rand believed that "man's life" is sacred. Rand never said that in so many words (though one of her followers, Stanley Lieberman, has done so⁴⁹), but she came close to saying it in the introduction to the 25th anniversary edition of *The Fountainhead*. There Rand

complained that such concepts as "exaltation," "worship," "reverence," and "sacred" have been monopolized by religion. "But," she said, "such concepts do name actual emotions even though no supernatural dimension exists...."⁵⁰ So, she continued, "It is the highest level of man's emotions that has to be redeemed from the muck of mysticism and redirected at its proper object: man."⁵¹ She then identified the "sense of life dramatized in *The Fountainhead* as *man worship*." As Max Stirner said, "Our atheists are pious people."⁵²

Rand, it seems, considered "man" and "man's life" to be sacred. But I say: Nothing is sacred. Nothing is "entitled to reverence." Nothing is "inviolable." However, Daniel C. Maguire insists that:

The notion of sacredness is more basic than the notion of God. Even those who dispense with the idea of God must deal with the sacred.... It is a functioning category of human existence without which the human animal cannot be understood. If nothing is sacred, human life becomes absurd, and ethical discourse is rendered inane."⁵³

But, contrary to Maguire, "the sacred" is a category necessary to the understanding only of *some* human animals, specifically, those two-legged sheep who believe in "the sacred." Maguire says that "If nothing is sacred, human life becomes absurd, and ethical discourse is rendered inane." But so what? If human life *is* absurd and ethical discourse *is* inane, then so be it. Apparently, Maguire cannot face the possibility that that's the way it is, and so he clings to "the sacred," like Linus clutching his security blanket. Max Stirner said, "Everything sacred is a tie, a fetter."⁵⁴ But, fortunately for us amoralistic egoists, "the sacred" is only a metaphorical tie, a metaphorical fetter, and can restrain only those who, like Maguire, choose to be bound or shackled by it.

According to Rand, "If life on earth is his purpose, he [man] has a *right* to live as a rational being; nature forbids him the irrational." Rand took the truth that irrationality *can* be incompatible with living on earth and, by means of typically Randian overgeneralization, turned it into a falsehood. In fact, nature "permits" a helluva lot of irrationality. How, for example, could Christianity have survived for nearly two millenia if nature "forbids" the irrational? How could maniacs like Jack Van Impe, Meir Kahane and the Ayatollah Khomeini survive and even prosper if nature "forbids" the irrational? For that matter, considering the irrational aspects of her own philosophy, such as her doctrine of "man's rights," how was it possible for Rand to live such a long and successful life if nature "forbids" the irrational?

Nathaniel Branden, who for years was designated by Rand as her "intellectual heir," once dubbed her Mrs. Logic. But, whatever reason there may have been for such a nickname, when Rand argued for "man's rights" she was not Mrs. Logic. She was Mrs. Illogic.

Another exponent of the natural rights myth is the Rand-influenced philosopher, Tibor R. Machan, a.k.a. Mr. Morality. Whereas Rand wrote about "man's rights," Machan writes about "human rights." But Machan's "human rights" are also "natural rights," since they supposedly derive from "human nature," specifically from the interrelated human traits of rationality (the capacity to think conceptually) and freedom (the capacity to choose whether or not to think conceptually).

According to Machan, a "morally good" person is one who is "fully aware."⁵⁵ Or, as he also puts it, "... moral perfection amounts, in the final analysis, to a person's being as fully conceptually aware as his capacities allow him to be."⁵⁶ Or, as he also says, "... basically virtue (being morally good) consists in living by the exercise of one's mind to the highest potential."⁵⁷ This is all somewhat vague, whether Machan is talking about being as fully aware as possible or about using one's mind to the highest potential. But things get a bit confused when it turns out that using one's mind to its *fullest* capacity is not the same thing as using it to its *highest* capacity. Machan says, "Thus, for instance, a philosopher is at his moral best when he exercises his mind to ITS FULLEST (not just highest) capacity on his particular level AS man AND philosopher...."⁵⁸ Machan gives not the faintest clue as to what the difference is between using one's mind to its fullest capacity and using it to its highest capacity. But, for some unspecified reason, he thinks the former is better than the latter. (Was Machan at his "moral best," using his mind to its fullest capacity, when he wrote his doctoral dissertation, from which I am quoting?)

In any case, having set up this nebulous criterion of "morality," Machan proceeds to derive the "human right to liberty" as follows:

Human rights pertain to what claims men have made vis-a-vis each other and how we are to judge between them. The connection between what a human right is and a conception of a good human life may be conceived as follows: What is morally right for a human being as an individual (what he should do) relates to what is good for him within OR outside a human community. In this sense, the "good" and "right" of political conditions are prudential, utilitarian: they are good and right because they serve the

purpose of making a morally good life possible for people. (Without the right to be free, for instance, and, thus, in a condition of coercion, it would be impossible to be either good or bad; one would have no chance for freedom of action, that is, to be an agent, to produce or do what is good or evil.) Depending on the context, what is morally appropriate will emerge. Thus, if a good human life is indeed a life guided by a fullest degree of awareness, then within the context of society this condition would have to be sought after. What, in short, can secure the social conditions right for man to fulfill his moral purpose, his utmost degree of human awareness, his fullest degree of humanity? What social conditions facilitate and enable the moral growth of individual human beings?

We have seen that a man's moral goodness depends on whether he chooses to be as fully aware as possible to him. In order for man to reach HIS highest level of awareness and act on it, he must be free to judge and to act on his judgements. This is true for EVERY man.... If interference upon this freedom occurs, the person who has been interfered with has been robbed of his opportunity and responsibility as a moral agent; if his judgement has been inhibited, his actions interfered with, he cannot be considered fully free and responsible. And this again is true of all men, all to whom human rights must be accorded. Thus, it is not necessary to specify that human freedom is LIMITED! by the rights of other persons. If all men are to be free to judge and act upon their judgements, that already tells us that such action cannot involve interference with others' freedom.

The human right which emerges from this analysis

is the right to be free. Of course it is a right which arises out of the moral value of individual human life and of free judgment and action. Political liberty, for this is what we are talking about, is based on the legal implementation of human rights, on the implicit or explicit recognition by all of a given community of men that each man's life is of supreme value and that a human life requires freedom of judgment and action to develop morally.⁵⁹

(Notice that Machan, having previously distinguished between using one's mind to its fullest potential and using it to its highest potential, now, in the first two sentences of the second paragraph of the above-quoted passage, treats these as being equivalent. Obviously, whatever Machan's criterion of "morality" amounts to, it is no more clear to Machan than it is to me.)

Machan begins by asserting that "moral goodness" depends on whether or not a person chooses to be as fully aware as possible. But then, without explanation, he changes this to make "moral goodness" contingent upon a person's being as fully aware as possible *and acting on that awareness*. Thus, he says, "Without the right to be free for instance, and, thus, in a condition of coercion, it would be impossible to be either good or bad; one would have no chance for freedom of action, that is, to be an agent, to produce or do what is either good or evil." But Machan simply contradicts himself when he makes a person's "moral goodness" depend on whether or not other people coerce him and thereby restrict his freedom of action. Previously Machan asserted that, "... the most important act for purposes of moral philosophy, the act for which all men can be held responsible if they fail to perform it because it lies at the base of all other acts and is itself undetermined FOR US but determined BY US to be or not to be performed, is the act of conceptual consciousness, the act

to think.”⁶⁰ And, according to Machan, man, by his very nature, possesses the freedom to choose to think or to not think. So even if a man’s external freedom of action is limited by coercion, he still retains his internal freedom to choose to think or to not think and can be judged accordingly. Thus, there is no reason whatever for Machan’s assertion that being in a condition of coercion makes it impossible for a person to be either “good” or “bad.” A person in a condition of coercion can still be “morally good” in Machan’s sense of being “as fully aware as possible.” Thus, Machan’s own premises negate his conclusion that a “right to be free” is a necessary condition for men to be “morally good” in a social context.

But even if one accepted the notion that being “morally good” depends upon being as fully aware as possible *and* acting on the basis of that awareness, this might, at best, prove the necessity of a rather limited degree of political freedom. As long as a person is not totally deprived of freedom of action, for example by being bound hand-and-foot, then, even in a state of coercion, he can think and judge and act on his judgments. Even if the government prohibits some activity, such as publicly criticizing the government, and threatens to punish those who violate the prohibition, an individual can still think about and judge the government’s prohibition and can, on the basis of his thinking and judging, determine whether or not to obey that prohibition. So Machan’s criterion of “morality” would still be applicable even in a condition of coercion and, thus, Machan has not proven that a “right to be free” is necessary for people to be able to be “morally good.”

But even if Machan had proven this point, another question would arise: why is Machan concerned with whether or not *other people* are able to live “morally good” lives? Why does he want *all* men to be free to judge and act on their

judgments? Machan says that “each man’s life is of supreme value,” but what does this mean? *To whom* is each man’s life of supreme value? To himself? To everybody? To Machan? My life is of supreme value to me; Machan’s life is not. Even if I wanted to live a “morally good” life (in Machan’s sense), why would I (or “should” I) care whether or not *Machan* is able to live such a “morally good” life? I’d like to see how Machan, the ostensible egoist, answers that question.

Machan’s doctoral dissertation is entitled *A Rationale for Human Rights Theory*. But, considering my above-stated criticisms of it, I think a better title would be *A Rationalization for Human Rights Theory*.

A leading contemporary exponent of the myth of natural rights is Murray N. Rothbard. Rothbard’s political creed is based on the “axiom” (i.e., dogma) of “nonaggression against anyone’s person and property.”⁶¹ Rothbard finds a foundation for this axiom in “natural rights.” Here is part of Rothbard’s argument:

Let us turn to the natural-rights basis for the libertarian creed, a basis which, in one form or another, has been adopted by most of the libertarians, past and present. “Natural rights” is the cornerstone of a political philosophy which, in turn, is embedded in a greater structure of “natural law.” Natural law theory rests on the insight that we live in a world of more than one — in fact, a vast number — of entities, and that each entity has distinct and specific properties, a distinct “nature,” which can be investigated by man’s reason, by his sense of perception and mental

faculties. Copper has a distinct nature and behaves in a certain way, and so does iron, salt, etc. The species man, therefore, has a specifiable nature, as does the world around him and the ways of interaction between them. To put it with undue brevity, the activity of each inorganic and organic entity is determined by its own nature and by the nature of the other entities with which it comes in contact. Specifically, while the behavior of plants and at least the lower animals is determined by their biological nature or perhaps by their "instincts," the nature of man is such that each individual person must, in order to act, choose his own ends and employ his own means in order to attain them. Possessing no automatic instincts, each man must learn about himself and the world, use his mind to select values, learn about cause and effect, and act purposively to maintain himself and advance his life. Since men can think, feel, evaluate, and act only as individuals, it becomes vitally necessary for each man's survival and prosperity that he be free to learn, choose, develop his faculties, and act upon his knowledge and values. This is the necessary path of human nature; to interfere with and cripple this process by using violence goes profoundly against what is necessary by man's nature for his life and prosperity. Violent interference with a man's learning and choices is therefore profoundly "antihuman," it violates the natural law of man's needs.⁶²

Essentially, Rothbard's argument is that each man needs to be free to learn, choose, develop his faculties and act upon his values in order to maintain and advance his life. To interfere with this process by violence goes against what is necessary by "man's" nature for his life and prosperity. "Violent inter-

ference with a man's learning and choices is therefore profoundly 'antihuman,' it violates the natural law of man's needs." But, granted that violent interference with a man's freedom generally tends to undercut his ability to live and prosper, the question is: Why should one man refrain from violently interfering with the freedom of another man simply because the other man (like all men) needs freedom? Why should I refrain from violently interfering with Murray Rothbard's freedom simply because Murray Rothbard needs freedom? If I can advance my life by violent interference with Murray Rothbard's freedom, why should I care what Murray Rothbard needs?

Rothbard says such interference is "antihuman." But, while violent interference with Murray Rothbard's freedom may be anti-Rothbardian, if it helps me, a human, advance my life, then how can it be unequivocally "antihuman"? If I violently interfere with Murray Rothbard's freedom, my action may be contrary to Rothbard's nature, but it is not contrary to my nature. According to John A. Goodson and David M. Longinotti:

There are...a number of problems with the derivation of natural rights, but one is fundamental. In defining man's nature, the savage characteristics are dismissed as being not proper to man. For Ayn Rand, "man's survival *qua* man" means a rational, productive existence, and anything else is nonhuman. But to assert that a human can have characteristics that are not human is to assert that A can be not-A, thus attempting to deny the law of identity. If, as Rothbard points out, "the activity of each inorganic and organic entity is determined by its own nature," then is it not true that the *violent* activity of an organism (for example, man) is also determined by its nature? And if, as John Hospers writes in *Libertarianism*, an

organism "acts for its survival by means implanted in it by nature," then must not the predatory acts of one man against another also be implanted by nature?

The point is that an organism's "nature" is what it *is*, or can be. It is not within an elephant's nature to fly; it *is* within a man's nature to steal.⁶³

While it is in "man's nature" to be free from violent interference by other men, it is also in "man's nature" to violently interfere with the freedom of other men. If I violently interfere with Murray Rothbard's freedom, this may violate the "natural law" of Murray Rothbard's needs, but it doesn't violate the "natural law" of *my* needs.

Rothbard continues his natural rights argument as follows:

The most viable method of elaborating the natural rights statements of the libertarian position is to divide it into parts, and to begin with the basic axiom of the "right to self-ownership." The right to self-ownership asserts the absolute right of each man, by virtue of his (or her) being a human being, to "own" his or her own body; that is, to control that body free of coercive interference. Since each individual must think, learn, value, and choose his or her ends and means in order to survive and flourish, the right to self-ownership gives man the right to perform these vital activities without being hampered by coercive molestation.⁶⁴

Rothbard's "right to self-ownership," like Rand's "right to life," is based on what men *need* to survive and flourish. But, as I've already said, *need is not a claim*. Rothbard's argument shows that he is just another bleeding-heart libertarian.

Rothbard's argument bases "human rights" on human survival needs, which raises the question: Why don't the

survival needs of all other organisms generate "rights" for those organisms? After all, they need freedom from violent interference with their survival activities as much as men do. Rothbard, however, clearly does not believe that animals have "rights." He says, "Animals are 'economic land,' since they are original nature-given resources."⁶⁵ And he presumably also considers plants to be "economic land." But the unanswered question is: Why aren't other men also "economic land"? Why can't (or "shouldn't") they also be viewed as "original nature-given resources"?

Rothbard's argument for the "right to self-ownership" continues:

Consider...the consequences of *denying* each man a right to his own person. There are only two alternatives: either (1) a certain class of people, A, have a right to own another class, B, or (2) everyone has the right to own his own equal quotal share of everyone else. The first alternative implies that while Class A deserves the rights of being human, Class B is in reality subhuman and therefore deserves no such rights. But since they *are* indeed human beings, the first alternative contradicts itself in denying natural human rights to one set of humans. Moreover, as we shall see, allowing Class A to own Class B means that the former is allowed to exploit, and therefore to live parasitically, *at the expense* of the latter. But this parasitism itself violates the basic economic requirement for life: production and exchange.⁶⁶

According to Rothbard, there are only these two alternatives to his claim that each man has a "right" to his own person. But, as George I. Mavrodes has pointed out, Rothbard "neglects others that would seem initially more plausible — if for no other reason than that they have actually been practiced and recognized in the legal systems of

slave-owning societies.”⁶⁷ And Rothbard neglects another alternative, to wit, that nobody has any “right” to own any person. By neglecting to consider certain alternatives, Rothbard renders his argument inconclusive at best.

But what about Rothbard’s criticism of the first alternative he mentions, that a certain class of people, A, has the right to own another class, B? Rothbard says that this alternative implies that Class B is subhuman and does not deserve the rights of being human. And since they *are* human, this alternatively supposedly contradicts itself in denying “human rights” to one class of humans. But this criticism rests on the unproven assumption that rights must be “human rights,” deserved by all human beings or none. But suppose Class A claims their right to own Class B, not on the ground that they are human beings, but because they are some particular kind of human beings (members of a “superior” race, for example). In that case, the denial of rights to Class B would not imply that Class B is subhuman, only that they are not the right kind of human to deserve rights. And there is no necessary contradiction in such a claim. It may be *unprovable* that one kind of human being deserves rights while another kind does not. But it is no more unprovable that Rothbard’s own position that one kind of organism (the human kind) deserves rights while other kinds do not.

Rothbard also criticizes alternative (1) on the grounds that the parasitism of Class A at the expense of Class B “violates the basic economic requirement for life: production and exchange.” But the basic economic requirement of life is simply the acquisition of the necessities of life by whatever means, whether by production or predation. If parasitism is incompatible with the basic economic requirement for life, then why haven’t men in all slavery-based societies simply died off? Obviously, some people must produce the necessities of life if anyone is going to survive. But this doesn’t

imply that everyone must engage in production for everyone to survive. For example, in a slave system, the lives of both master and slave may be sustained by the productivity of the slave. Thus, parasitism can be a viable means of survival, one which is not necessarily incompatible with the survival of the victims. If there is something “wrong” with such parasitism, Rothbard hasn’t proven it.

I am not going to discuss the second alternative postulated by Rothbard, “participatory communalism,” because I agree with Rothbard that it is not a practicable alternative.

Rothbard, having criticized and rejected two alternatives to his beloved “right to self-ownership,” concludes by adopting as his “primary axiom” the universal “right to self-ownership.” But George I. Mavrodes has made a telling point against Rothbard’s argument:

Even if we were to list every form which the ownership of human beings could possibly take and were then to find arguments ruling out all of them except self-ownership, we would still not have established the propriety of this last system. In order to justify that conclusion we should have to add still another premise to the argument — the premise that every human being is, or ought to be, owned by somebody or other. We need this premise to keep us from rejecting self-ownership right along with the other forms, concluding that human beings are not owned by anyone at all.

Rothbard does not argue in this connection for the claim that everyone is owned by somebody or another. He does not even mention it. He rather seems to assume it as something so obvious that it hardly rises into consciousness at all. But is it obvious? Why should there not simply be unowned people?⁶⁸

Rothbard's argument for the "right to self-ownership" has more holes in it than a slice of Swiss cheese and doesn't prove a damned thing.

Ironically, Rothbard himself has insisted "... that it is not enough for an intellectual or social scientist to proclaim his value judgments — that these judgments must be rationally defensible and must be demonstrable to be valid, cogent and correct...."⁶⁹ But, as I've shown, Rothbard fails to live up to these standards. His value judgments in favor of "self-ownership" and "nonaggression" have not been shown to be valid, cogent and correct. And interestingly enough, David Gordon, a sympathetic commentator on Rothbard's case for the "right to self-ownership," to whom Rothbard's argument "seems entirely convincing,"⁷⁰ nevertheless agrees with me on this point. Gordon says that to present the case in the way Rothbard does "is in part to rely on one's moral intuitions, e.g., in seeing that slavery is wrong; and this Rothbard would regard as a defect."⁷¹ Since Rothbard's case for the "right to self-ownership" relies on his "moral intuition" (value judgment) that slavery is "wrong," he has not demonstrated, but merely assumed, the correctness of his value judgments.

Another natural rights mythologizer is Paul Lepanto, an unauthorized exponent of Ayn Rand's Objectivism, "the only rational school of contemporary philosophy."⁷² Lepanto, like Rand, views "man's life" as the standard of "morality." But, also like Rand, he wants to rule out certain kinds of actions that men can and do sometimes perform to sustain or enhance their lives. He tries to do so in the following passage, which essentially presents his argument for rights, though without yet using that term:

Presumably each member of a society wishes to advance his life. What if one man (or group of men) tries to live by means of harming another man?

The first step in arriving at a solution to this problem is to see that such an attempt cannot be rationally justified.

Consider two men. Both have the same nature. Both (we assume) want to live and prosper. Both face the fundamental alternatives of life and death. These facts establish a kind of metaphysical equality between any two men.

Now, suppose that A tries to live at the involuntary expense of B, and suppose it is claimed that such an attempt is justified. Such a claim must rest on the assumption that A and B are unequal in some fundamental way, some way that justifies A's throttling the life of B. Unless it can be shown that A is somehow superior to B, his attempt to live at B's involuntary expense simply cannot be justified.

But there is no basis on which to claim, let alone prove, such inequality; the metaphysical equality that exists among men precludes it. Hence the attempt of one man to live at the involuntary expense of another is irrational — and therefore immoral.⁷³

Lepanto's argument rests on the unexplained and unproven assumption that a man's actions "must" be "rationally justified." Lepanto has us suppose that A tries to live at the involuntary expense of B and that it is claimed that such an attempt is justified. But suppose, instead, that A tries to live at the involuntary expense of B and that it is *not* claimed that such an attempt is justified. What would Lepanto say about that? How would he prove that it is necessary to "rationally justify" one's actions?

In any case, it is not clear to me what Lepanto means in calling for "rational justification" of one's actions. For an egoist, the only "justification" for one's actions is that those actions benefit oneself. If, by means of reason, A concludes that he will benefit from living at the involuntary expense of B, then an egoist would agree that A is "rationally justified" in doing so. Lepanto, an exponent of Objectivism, is supposedly an egoist. But, for some reason, he expects some sort of non-egoistic "rational justification" for one's actions.

According to Lepanto, a claim that A is "justified" in trying to live at the involuntary expense of B must rest on the assumption that A and B are unequal in some fundamental (metaphysical) way and that A is superior to B. But for an egoist, as I've said, the only "justification" for an action is that it benefits him. Thus, if A is rationally convinced that he will benefit from trying to live at the involuntary expense of B, then he is "rationally justified" in doing so. From this point of view it is entirely irrelevant whether or not A is "metaphysically superior" to B. If I were rationally convinced that I could benefit myself at Lepanto's involuntary expense, then I would be "rationally justified" in doing so, even if Lepanto were "metaphysically superior" to me.

Of course, Lepanto does not claim to be "metaphysically superior" to me; he claims that we are "metaphysically equal." Why is this so? Supposedly because we have the same nature, we both want to live and prosper and we both face the fundamental alternatives of life and death. But every living thing faces the fundamental alternatives of life and death. That doesn't mean that every living thing is "metaphysically equal," does it? And even though both Lepanto and I wish to live and prosper, the chances are that one of us desires this more intensely than the other, in which case, are we "metaphysically equal"? As for the two of us having the same "nature," what this amounts to is that we are both human and, thus, share some biological traits. There is, therefore,

some degree of similarity between the two of us, a higher degree of similarity than that which exists between either of us and any nonhuman thing. But similarity is not "equality." As Murray Rothbard has said:

A and B are "equal" if they are identical to each other with respect to a given attribute. Thus, if Smith and Jones are both exactly six feet in height, then they may be said to be "equal" in height. If two sticks are identical in length, then their lengths are "equal," etc. There is one and only one way, then, in which any two people can really be "equal" in the fullest sense: they must be identical in *all* their attributes.⁷⁴

Of course, with the possible exceptions of identical twins and clones, no two people ever are identical in all their attributes. On the contrary, every individual is unique, not exactly like any other individual. Biochemist Roger J. Williams has discussed in great detail the phenomenon of human diversity. For example, Williams has written:

Individuals differ from each other even in the minutest details of anatomy and body chemistry and physics: finger and toe prints; microscopic texture of hair; hair pattern on the body; ridges and "moons" on the finger and toe nails; thickness of skin, its color, its tendency to blister; distribution of nerve endings on the surface of the body; size and shape of ears, of ear canals, of semicircular canals; length of fingers; character of brain waves (tiny electrical impulses given off by the brain); exact number of muscles in the body; heart action; strength of blood vessels; blood groups; rate of clotting of blood — and so on almost *ad infinitum*.⁷⁵

Furthermore, individual differences in behavior and personality are observable soon after birth:

At the Menninger Foundation a few years ago two

investigators, a psychologist and a psychiatrist, found abundant evidence of distinctiveness in 128 babies that they observed carefully from four weeks to thirty-two weeks of age. Everything about them was observed — from diaper wetting and soiling, to feeding, sleeping, playing, crying and bathing. Some babies were found to be bold; others were shy; some reacted quickly to outside stimuli; some were slow. Some were aggressive and persistent when reaching for toys, etc.; others gave up easily. Some babies were very regular in their eating, sleeping or bowel-movement patterns; others were correspondingly irregular. Some could tolerate tensions and frustrations readily; others couldn't take it. Marked personality differences showed up as early as they could be observed.⁷⁶

Thus, as Murray Rothbard writes, "...men are not uniform, ...the species, mankind, is uniquely characterized by a high degree of variety, diversity, differentiation; in short, inequality."⁷⁷ But if, as a matter of fact, people are not "equal," then all of Lepanto's talk about the "metaphysical equality" of all men is merely metaphysical mumbo-jumbo.

If people, by their very biological nature, are unequal, then egalitarianism is, as Rothbard has said, a revolt against nature.⁷⁸ But libertarianism, the advocacy of "a free society" in which people enjoy "equal freedom" and "equal rights," is actually just a specific form of egalitarianism. As such, libertarianism itself is a revolt against nature. If people, by their very biological nature, are unequal in all the attributes necessary to achieving and preserving "freedom" and "rights," e.g., strength, courage, aggressiveness, persistence, determination, intelligence, etc., then there is no way that people can enjoy "equal freedom" or "equal rights." If "a free society" is conceived as a society of "equal freedom," then there ain't no such thing as "a free society." TANSTAAFS.

Among the exponents of the myth of natural rights, Ronald Cooney is decidedly one of the lesser lights. But his essay, "Natural Rights," is of interest because of its unique arguments. Its arguments for natural rights are essentially negative arguments, pointing out the supposed horrible implications of denying natural rights. Let's examine what Cooney calls "the ethical arguments in favor of natural rights:"

If it is true that men have only the rights the State has seen fit to give them, what is to stop the State, at any time and for any reason, from taking back those rights? Furthermore, how can we say that the State acts wrongly if it chooses to take that action? By the logic of the opponents of natural rights, the Nazi regime had a perfect justification for recalling the rights, including the right to life of 6,000,000 human beings, and should not be condemned or thought evil for simply exercising the prerogative to which, as a state, it was clearly entitled. Thus, the denial of natural rights quickly resolves itself into a rejection of the ethical differences between governments, making a slave-state the moral equal of a republic.⁷⁹

It is a fairly minor point, but Cooney is somewhat misleading in equating the denial of natural rights with the claim that "men have only the rights the State has seen fit to give them." Somewhat misleading because the denial of natural rights does not entail the denial that man may have rights in state-less societies. But such rights as men may have in state-less societies are a matter of custom, not "natural law," and may be called customary rights. And such customary rights can vary according to time and place, like

state-granted rights and unlike supposed "natural rights." So, to rephrase Cooney's first question, if there are no natural rights over and above the rights the State has seen fit to grant men, what is to stop the State, at any time and for any reason, from taking back those rights? But one could just as well ask Cooney: Even if the people do have natural rights, what is to stop the State, at any time and for any reason, from taking back whatever rights it had previously granted? Have Cooney's (and other Americans') supposed natural rights stopped the American State from taking back many previously-granted rights? Of course not. The only thing that can prevent any state from taking back previously-granted rights is the *power* to prevent it from doing so. And that is so regardless of whether or not there are any natural rights. So Cooney's question proves nothing about the reality of natural rights.

But Cooney asks another question: If there are no natural rights, then how can we say that the State acts wrongly if it takes back rights it has previously granted? Taking that question literally, I would ask Cooney in return: Assuming you are not mute, what's stopping you from saying that the State acts wrongly in doing that? But I don't think Cooney meant the question literally. I think he meant something like this: If there are no natural rights, then what "moral justification" could we have for saying the State acts wrongly in taking back rights it previously granted. This question I will answer bluntly: none whatever. But I will point out that if Cooney really thinks there is something to be gained by saying the State acts wrongly in taking back previously-granted rights, then he *can* say that even without any "moral justification" for saying it. Cooney apparently thinks he must have a "moral justification" for criticizing the State in "moral" terms. But if one sees through the myth of morality, one realizes that one does not need a "moral justification"

(and that there *is* no "moral justification") for anything one does or says. Since nothing is "morally wrong," it is not "morally wrong" to say that the State is "morally wrong" in taking back previously-granted rights even though it really isn't "morally wrong" for the State to do so. Thus, the denial of natural rights does not preclude the making of "moral" criticisms of the State.

But even if a denial of natural rights did preclude that, I would ask: So what? Making moral criticisms of the State is not going to effect the State's course of action. Cooney can condemn the State 'til he's blue in the face, but that's not going to dissuade the State from taking back previously-granted rights if the State has decided to do so.

Cooney goes on to assert that, "By the logic of the opponents of natural rights, the Nazi regime had a perfect justification for recalling the rights, including the right to life of 6,000,000 human beings, and should not be condemned or thought evil for simply exercising the prerogative to which, as a state, it was clearly entitled." Cooney is obviously referring to the Holocaust, the supposed extermination of six million Jews by the Nazi State. It so happens that I am a skeptic regarding the Holocaust in general and the six million Jews supposedly killed by the Nazis in particular. But, for the sake of argument, I will assume the truth of the conventional wisdom about the Holocaust and will respond to Cooney on that basis.

So what about Cooney's claim that those who reject the idea of natural rights must conclude that the Nazi regime "had a perfect justification for recalling the rights, including the right to life" of six million Jews? Well, I find it interesting that moralists like Cooney seem incapable of looking at things from the amoral point of view. They almost invariably present amoralism in "moral" terms. But it is only the moralists who think in "moral" terms, who think that actions are (or are not) "perfectly justified." As I've already said, if

one sees through the myth of morality, one realizes that there is no "moral justification" for anything anyone does. So the rejection of the idea of natural rights does not entail the conclusion that the Nazis were "perfectly justified" in killing six million Jews. Rather, the rejection of the idea of natural rights entails the conclusion that the Nazis were neither "justified" nor "unjustified" in killing six million Jews.

Cooney also claims that those who reject the idea of natural rights must conclude that the Nazi regime "should not be condemned or thought of as evil for simply exercising the prerogative to which, as a state, it was clearly entitled." But here again Cooney is presenting the amoral point of view in "moral" terms. But while an amoralist may not condemn the Nazi regime or think it "evil" for killing six million Jews, the amoralist would not assert that others "should not" do so. The amoralist is also an individualist and believes "to each his own." If somebody wants to condemn the Nazi regime or think it "evil," that's their business. Furthermore, it is particularly absurd to claim that those who reject the idea of natural rights must conclude that the Nazi regime was "clearly entitled" to revoke the natural right to life of six million Jews. This is tantamount to claiming that those who reject the idea of natural rights must conclude that the Nazi regime had a "right" to kill six million Jews. But if there are no natural rights, then obviously the Nazi regime had no natural right to kill anybody. (Of course, as a matter of fact, the Nazi regime may have had a *legal* right to kill Jews. But that's irrelevant to the issue of natural rights.)

But suppose Cooney were right and every Jew in Nazi-occupied Europe had a natural right to life. I would then ask: What good did the Jews' natural right to life do them? How many Jewish lives were saved by their natural right to life? The answer, of course, is: Zero. According to Cooney, "Natural law...provides protection for individual's rights

from violation...by the State itself."⁸⁰ But natural law obviously didn't protect the Jews' natural rights from violation by the Nazi State. If all Jews of Nazi-occupied Europe had a natural right to life and, yet, the Nazi regime was able to kill six million of them, then clearly natural rights are of no value whatever as protective devices. A bullet-proof vest may protect a person against being shot, but a natural right has never stopped a single slug. A gas mask may protect a person against gas poisoning, but a natural right has never saved a single person from being gassed to death.

Cooney concludes, "Thus, the denial of natural rights quickly resolves itself into a rejection of the ethical differences between governments, making a slave-state the moral equal of a republic." To which I reply: So what? To deny that there are ethical differences between governments is not to deny that there are other kinds of differences between governments, differences which can be of great practical importance. Cooney obviously wants to believe that a republic is "morally superior" to a "slave-state" and sees natural rights as providing a justification for that belief. But this is not really an argument for natural rights; it is merely a confession of what Cooney wants to believe. And who cares what Cooney wants to believe? Not I.

I've said that the idea of natural rights is an unprovable assumption. In any case, those whose arguments I've criticized have not proven the reality of natural rights. All their arguments prove is the aptness of certain remarks made by Nietzsche in *Beyond Good and Evil*. He wrote:

What provokes one to look at all philosophers half suspiciously, half mockingly, is not that one discovers again and again and again how innocent they are...but that they are not honest enough in their work, although they all make a lot of virtuous noise when the problem about truthfulness is touched even remotely. They all pose as if they had discovered and reached their real opinions through the self-development of cold, pure, divinely unconcerned dialectic (as opposed to the mystics of every rank, who are more honest and doltish — and talk of “inspiration”); while at bottom it is an assumption, a hunch, indeed a kind of “inspiration” — most often a desire of the heart that has been filtered and made abstract — that they defend with reasons they have sought after the fact. They are all advocates who resent that name, and for the most part even wily spokesmen for their prejudices which they baptize “truths”....⁸¹

When believers in the myth of natural rights argue for that belief, philosophy becomes philosophistry.

In the introduction to his book, *Heresies*, Thomas Szasz writes, “Most of the heresies in this book...pertain to matters where language is used in two ways, literally and metaphorically; where the true believer speaks metaphorically but claims that he asserts literal truths; and where heresy may consist of no more than insisting that a metaphoric truth may be a literal falsehood.”⁸² The true believer in the myth of natural rights speaks metaphorically but claims to assert a literal truth. But, of course, the purpose of this essay has been to insist that their affirmation of the existence of natural rights is a literal falsehood. If this be heresy, then make the most of it.

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